

§§ 313.31–313.39 [Reserved]

Subpart C—Salary Offset

§ 313.40 Scope.

These salary offset regulations are issued in compliance with 5 U.S.C. 5514 and 5 CFR part 550, subpart K, and apply to the collection of debts owed by employees of the FDIC or other federal agencies. These salary offset procedures do not apply where an employee consents to the recovery of a debt from his current pay account. These procedures do not apply to debts arising under the Internal Revenue Code, the tariff laws of the United States or to any case where collection of a debt by salary offset is explicitly provided for or prohibited by another statute (e.g., travel advances under 5 U.S.C. 5705 and employee training expenses under 5 U.S.C. 4108). These procedures do not preclude an employee from requesting waiver of an erroneous payment under 5 U.S.C. 5584, or in any way questioning the amount or validity of a debt, in the manner specified by law or these agency regulations. This section also does not preclude an employee from requesting waiver of the collection of a debt under any other applicable statutory authority. When possible, salary offset through centralized administrative offset procedures should be attempted before seeking salary offset from a paying agency different than the creditor agency.

§ 313.41 Notice requirement where FDIC is creditor agency.

Where the FDIC seeks salary offset under 5 U.S.C. 5514 as the creditor agency, the FDIC shall first provide the employee with a written Notice of Intent to Offset at least 30 calendar days before salary offset is to commence. The Notice of Intent to Offset shall include the following information and statements:

- (a) That the Director has determined that a debt is owed to the FDIC and intends to collect the debt by means of deduction from the employee's current disposable pay account until the debt and all accumulated interest is paid in full or otherwise resolved;
- (b) The amount of the debt and the factual basis for the debt;

- (c) A salary offset schedule stating the frequency and amount of each deduction, stated as a fixed dollar amount or percentage of disposable pay (not to exceed 15%);

- (d) That in lieu of salary offset, the employee may propose a voluntary repayment plan to satisfy the debt on terms acceptable to the FDIC, which must be documented in writing, signed by the employee and the Director or the Director's designee, and documented in the FDIC's files;

- (e) The FDIC's policy concerning interest, penalties, and administrative costs, and a statement that such assessments must be made, unless excused in accordance with the FCCS;

- (f) That the employee has the right to inspect and copy FDIC records not exempt from disclosure relating to the debt claimed, or to receive copies of such records if the employee or the employee's representative is unable personally to inspect the records, due to geographical or other constraints:

- (1) That such requests be made in writing, and identify by name and address the Director or other designated individual to whom the request should be sent; and

- (2) That upon receipt of such a request, the Director or the Director's designee shall notify the employee of the time and location where the records may be inspected and copied;

- (g) That the employee has a right to request a hearing regarding the existence and amount of the debt claimed or the salary offset schedule proposed by the FDIC, provided that the employee files a request for such a hearing with the FDIC in accordance with § 313.42 that such a hearing will be conducted by an impartial official who is an administrative law judge or other hearing official not under the supervision or control of the Board;

- (h) The procedure and deadline for requesting a hearing, including the name, address, and telephone number of the Director or other designated individual to whom a request for hearing must be sent;

- (i) That a request for hearing must be received by the FDIC on or before the 30th calendar day following receipt of the Notice of Intent, and that filing of